

Surrogate Parent Appointment

What if the parent cannot be identified or located?

School districts must ensure that an individual is assigned to act as a surrogate parent for the parents of a child with a disability when a parent cannot be identified and the school district cannot discover the whereabouts of a parent. A surrogate parent may also be appointed if the child is an adjudicated dependent or ward of the court under the state Welfare and Institution Code and the child is referred to special education or already has an IEP. (20 USC 1415[b]; EC 56050)

Nondiscriminatory Assessment

How is my child assessed for special education services?

You have the right to have your child assessed in all areas of suspected disability. Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory. Assessment materials must be provided and the test administered in your child's native language or mode of communication, unless it is clearly not feasible to do so. No single procedure can be the sole criterion for determining eligibility and developing an appropriate educational program for your child. (20 USC 1414[a][b]; EC 56001[j] and 56320)

Independent Educational Assessments

Can my child be tested independently at the district's expense?

If you disagree with the results of the assessment conducted by the school district, you have the right to ask for and obtain an

independent educational assessment for your child from a person qualified to conduct the assessment at public expense. The school district must respond to your request for an independent educational assessment and provide you information upon request about where to obtain an independent educational assessment.

If the school district disagrees that an independent assessment is necessary, the school district must request a due process hearing to prove that its assessment was appropriate. If the district prevails, you still have the right to an independent assessment but not at public expense. The IEP team must consider independent assessments. (20 USC 1415; EC 56506[c] and 56329[b]; 34 CFR 300.502)

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom. If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to first observe your child in the proposed new setting. (EC 56329(b) and (c))

Access to Educational Records

Can I examine my child's educational records?

You have a right to inspect and review all of your child's education records without unnecessary delay including prior to a meeting about your child's IEP or before a due process hearing. The school district must provide you access to records and copies if requested, within five days after the request has been made orally or in writing. (20 USC 1415[b]; EC 56501, 56504, and 49069)

Children Attending Private School

When is reimbursement required for private school tuition?

Children who are enrolled by their parents in private schools may participate in publicly funded special education programs. While school districts have the clear responsibility to offer a free appropriate public education to students with disabilities, recent changes to federal law have significantly limited the school district's responsibility to provide services to students whose parents have chosen for them to attend private schools. Federal law limits the amount that school districts must spend of the federal entitlement to a proportionate share of federal IDEA funds. Parents are entitled to reimbursement for costs associated with the private school placement only if a court or hearing officer determines that the public agency had not made a free appropriate public education available to the child. (20 USC 1412[a]; EC 56175; 34 CFR 300.453)

When may reimbursement be reduced or denied?

The court or hearing officer may reduce or deny reimbursement if you did not make your child available for an assessment upon notice from the school district before removing your child from public school. You may also be denied reimbursement if you did not inform the school district that you were rejecting the special education placement proposed by the school district and gave notice of your concerns and intent to enroll your child in a private school at public expense.

Your notice to the school district must be given either:

- ◆ At the most recent IEP meeting you attended before removing your child from the public school; or
- ◆ In writing to the school district at least ten business days (including holidays) before removing your child from the public school. (20 USC 1412[a]; EC 56174, 56176)

When can reimbursement not be reduced or denied?

A court or hearing officer may not reduce or deny reimbursement to you if you failed to notify the school district for any of the following reasons:

- ◆ Illiteracy and inability to write in English;
- ◆ Giving notice would likely result in physical or serious emotional harm to the child;
- ◆ The school prevented you from giving notice; or
- ◆ You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of this notice requirement.

Observation of Your Child at a Nonpublic School

If you unilaterally place your child in a nonpublic school and you propose the placement in the nonpublic school to be publicly financed, the school district must be given the opportunity to first observe the proposed placement and your child in the proposed placement. The school district may not observe or assess any other child at the nonpublic school without permission from the other child's parent or guardian. (EC 56329(d))